

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

JERSEYVILLE MOTOR COMPANY, INC.

Employer¹

and

Case 14-RC-12433

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE
WORKERS, AFL-CIO

Petitioner

**REGIONAL DIRECTOR'S DECISION AND
DIRECTION OF ELECTION**

The Employer, Jerseyville Motor Company, Inc., sells automobiles and repair services at its dealership located in Jerseyville, Illinois. The Petitioner, International Association of Machinists and Aerospace Workers, AFL-CIO, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit of all full-time and regular part-time service technicians,² employed by the Employer at the Jerseyville facility. A hearing officer of the Board held a hearing and the Employer filed a brief.

The Petitioner contends that the service technicians constitute a craft unit that may be represented in a separate unit for collective bargaining. The Employer contends that the only appropriate unit must include all service department employees or, alternatively, only the service technicians and body technicians. The overall unit requested by the Employer includes six service technicians, one oil and lube technician, four body shop technicians, two service

¹ The Employer's name appears as amended at hearing.

² The Petitioner refers to "mechanics" in its petition. At hearing, the parties stipulated that the classifications of mechanics and service technicians are interchangeable. For the sake of clarity, I shall use the term "service technicians" in accordance with the parties' posture at hearing. I shall refer to the oil and lube technician separately.

advisors, one parts counter person, and one porter. There is no history of collective bargaining for any of these employees.

I have considered the evidence and the arguments presented by the parties on the issue. As discussed below, I have concluded that the service technicians are a distinct and homogeneous group of highly trained and skilled craftsmen constituting an appropriate separate craft bargaining unit, that they share a community of interest separate from that of other employees, and that the oil and lube technician should also be included in this unit as an apprentice or helper. Accordingly, I have directed an election in a unit that consists of six service technicians and one oil and lube technician.

I. OVERVIEW OF OPERATIONS

In addition to its automotive sales, the Employer provides mechanical services, collision repair bodywork, and oil and lube services at its Jerseyville Ford Motor Company dealership. The Jerseyville facility contains a showroom, several offices, a service department, employee and customer restrooms, and a customer waiting room. The service department is generally divided into three sections: (1) the service shop area, where the service technicians diagnose and repair vehicles; where the service advisors schedule repair work; where the oil and lube technicians perform lubrication and oil changes; and where the porter washes cars; (2) the enclosed body shop, where the body technicians repair dents and body damage and paint vehicles in an enclosed paint booth; and (3) the enclosed parts shop, where the parts counter person issues parts to the service technicians from a counter that opens to the service shop area. The service department also contains a lounge used by customers as a waiting room and used by employees as a break room if not full of customers.

The Employer's president is responsible for its overall operations. The service department is under the overall supervision of the parts and service director. A service shop manager and a body shop manager report directly to the parts and service director. Neither party contends that the service shop manager or the body shop manager is a supervisor, and

the record does not establish supervisory status. The parts and service director has the authority to hire, fire, layoff, discipline, and grant wage increases to all employees in the parts and service department. While the director may seek input from the service shop manager and the body shop manager with respect to hiring, firing, and discipline, the director makes the final decision in all cases. She also spends 3 hours a day on the floor in the service shop monitoring the work of the service technicians. The record does not reflect how many hours per day the director spends monitoring the work of the body shop technicians or the other employees.

All parts and service department employees work the same shift, from 8 a.m. to 5 p.m., Monday through Friday. They do not punch a time clock but sign time sheets to record their daily arrival and departure times. There are separate entrances for the service shop area and the body shop. While employees are not required to use any particular entrance, the service technicians normally use the service area entrance while the body shop technicians use the body shop entrance. The service technicians, the oil and lube technician, and the body shop technicians wear the same uniform, which is provided for and cleaned by the Employer. However, the service manager and the body shop manager do not wear this uniform; they wear the same polo shirt as the parts and service director, the service advisors, and the parts counter person. The record does not reflect whether the porter wears any particular uniform.

All of the employees described above receive an hourly rate except for the salaried service manager. While the hourly rate varies among employees, all receive a 3 percent wage increase on their anniversary date. The service technicians, excluding the service manager, participate in a bonus incentive plan and can receive a wage increase of up to \$2 an hour. The bonus is related to efficiency in performing mechanical repairs; thus, the service technicians are the only employees who are eligible for this hourly increase. Other employees, including the service manager and the body shop manager, may receive a merit bonus, typically around \$50 at any time if either the president or the parts and service manager determines that the

employee has “gone the extra mile.”³ All employees are subject to the same personnel policies and receive the same vacation, sick leave, and health and group life insurance options. All employees can utilize the service department lounge during their breaks if available.

II. SERVICE TECHNICIANS

There are six service technicians, including the service manager, who diagnose mechanical problems and perform all levels of maintenance and repairs on automobiles brought in by customers. Four of the six service technicians specialize and perform the majority of their work in the following different areas: (1) front end, which includes suspension, steering, and alignment; (2) electrical; (3) transmission; and (4) engine. One of the two remaining service technicians is a probationary employee that has worked mainly on brakes and recalls during his 90-day probationary period. The other service technician is the service manager; he spends at least 50 to 60 percent of his time every day performing automotive repairs. The record is not clear as to whether this figure includes time spent assisting and monitoring the service technicians.

In order to perform work covered by a Ford warranty, Ford requires the Employer’s service technicians to obtain Ford certification by successfully completing training courses administered by Ford in a variety of areas. For example, Ford offers 13 courses in the area of electrical systems, 13 courses in the area of gasoline engine performance, and 9 classes in the area of brakes, just to name a few. The Employer pays for this training. The service technicians may also attend classes from the National Institute for Automotive Service Excellence to become “ASE certified” in a particular area. The service technicians attend ASE classes on their own time. The Employer reimburses them for training costs only if they successfully complete the program. Ford requires ASE certification before an employee can

³ It appears that the service technicians may also receive discretionary merit bonuses.

become Ford certified as a “senior master” specialist. Service technicians are retested every 5 years to maintain their ASE certification.

Service technicians are required to supply their own specialty and hand tools. These personal tools can be valued at as much as \$40,000. Examples of specialty tools include: snap ring pliers, vibration dampener pullers, compression testers, calipers, micrometers, seal drivers, bearing and seal pullers, brake repair tools, and clutch plate alignment tools. Hand tools include items like hammers, screwdrivers, wrenches, pliers, and measuring tools. Service technicians keep their personal tools in large toolboxes that can measure up to 6 feet tall and 3 x 5 feet wide.

The Employer provides many major diagnostic and measuring tools including the WDS Scan tool and the NGS Scan tool, which are diagnostic computers. Other examples include: brake lathes, an alignment rack, an engine stand, cherry pickers, a hydraulic press, strut depressors, a coolant flush machine, and a transmission flush machine. These tools are located at various areas in the service shop while the service technicians’ personal tools are kept near their work area.

Service work is charged at a \$70 flat rate. Service technicians’ hourly rates range from \$8.75 for a probationary employee to \$21.22 for a master certified technician. Service technicians can also earn up to an additional \$2 an hour through the Employer’s incentive bonus plan.

The service technicians may occasionally perform certain mechanical work like recharging air conditioners or replacing suspension parts on vehicles in the body shop that cannot be moved. The parts and service director testified that it was not uncommon for service technicians to go to the body shop in connection with a wrecked automobile requiring both mechanical and body repairs to make a mechanical diagnosis. However, a service technician who had worked for the Employer for 11 years estimated that this happened perhaps once a month, and the duration would be limited. For example, he testified that it takes approximately

30 minutes in order to recharge an air conditioner. The parts and service director testified that it could take a service technician a couple of hours to make a diagnosis. Regardless of the frequency, the record is clear that the service technicians do not perform body shop work, but perform mechanical work, during any such exchange.

The Employer has never permanently transferred a service shop technician to the body shop. A service technician testified that he recalled one occasion where a service technician went over to the body shop temporarily, but he could not recall for how long a period or why the service technician went to the body shop. He further testified that body shop technicians do not fill in for the service technicians.

III. THE OIL AND LUBE TECHNICIAN

There is one oil and lube technician, whom the Employer apparently classifies as a service technician. This technician handles lubrication, oil and filter changes, tire rotations, and other simple mechanical work like measuring brake pads. However, service technicians may also perform oil and filter changes on a vehicle during the course of their repair work. The oil and lube technician also performs pre-delivery work which consists of test-driving and inspecting new vehicles to ensure the vehicle is ready for sale to the customer. The record does not reflect the percentage of time the oil and lube technician spends on performing mechanical work versus pre-delivery work. The oil and lube technician is not required to possess any particular training. This technician makes \$12.67 an hour.

IV. THE BODY SHOP TECHNICIANS

There are four technicians who perform bodywork upon vehicles with damaged exteriors. The enclosed body shop is located adjacent to the service area. Within the body shop, there is an enclosed paint booth. If mechanical repairs are discovered while performing bodywork, a body shop technician contacts a service technician to come and inspect the mechanical problem. If they are not busy performing body shop work or the service technicians are not available, a body shop technician may perform a pre-delivery inspection or replace old

parts such as wiper blades, fuses, batteries, starters, and radiators. The Employer's parts and service director testified if the service technicians were unavailable for some reason, the body shop manager could review the work tickets to determine whether any such work could be transferred and performed in the body shop. The record does not establish how frequently this occurs. There is no evidence as to the percentage of time that body shop technicians spend performing simple or routine mechanical work. While they can replace old parts, body shop technicians are not qualified or certified to make any mechanical diagnosis or complex repair. The body shop technicians are not required to possess any specialized training or certification.

The flat rate charged for body shop work is \$42 to \$46 per hour. The hourly wage rate for body shop technicians is between \$12 and \$16.50 per hour. The body shop technicians are eligible to receive merit bonuses. A service technician who had worked for the Employer 11 years could not recall a time when a body shop technician was either temporarily or permanently transferred from the body shop to the service shop.

V. THE SERVICE ADVISORS

There are two advisors who answer phones and schedule appointments for the service department from a service desk located in the service area. When a customer arrives at the facility to drop off their car, the service advisors create a ticket for the work order that contains the customer's name, address, the serial number and mileage of the car, and a brief description of the problems and/or symptoms. The advisors then run the serial number and symptom codes through Ford's computerized mechanical data system to determine whether there is any information that could assist the service technicians. If this information reveals the existence of a problem that requires a particular part, the advisor may also order the required part without consulting the service technicians. The service advisor assigns the ticket to the service technician who specializes in the area of the customer's problem or to an appropriately skilled available service technician. The advisors do not perform any complex diagnostic work or any

mechanical work. They are not required to possess any specialized training or certifications. The record does not reflect the service advisor's hourly rate.

VI. THE PARTS COUNTER PERSON

There is one parts counter person who provides the service technicians (and presumably the body technicians) with any necessary parts. If the part is not in stock, the parts person will order any required parts. The parts room is located adjacent to the body shop but has a counter that opens to the service area. The counter parts person does not perform any mechanical work and is not required to possess any specialized training or certification. The record does not reflect the parts counter person's hourly rate.

VII. THE PORTER

There is one porter who washes cars, shuttles customers to and from work, and picks up customer's vehicles and drives them to the service department. On occasion, the porter may assist the service technicians in bleeding brakes by sitting in the driver's seat and pressing on the brakes or by riding along in a vehicle to listen for noises. The contact with the service technicians is not prolonged; it takes only about 5 minutes to bleed brakes. Any assistance provided to the service technicians does not require mechanical skills. The porter does not possess any specialized training or certification. The bay where the porter washes cars is separated from the other bays in the service shop by a wall. The record does not reflect the porter's hourly rate.

VIII. THE SCOPE OF THE UNIT

Nothing in the Act requires that the unit for bargaining be the *only* appropriate unit, or the *ultimate* unit, or the *most* appropriate unit; the Act requires only that the unit be "appropriate." *Bartlett Collins Co.*, 334 NLRB No. 76 (2001). Thus, a union is not required to seek representation in the most comprehensive grouping of employees unless "an appropriate unit compatible with that requested does not exist." *P. Ballantine & Sons*, 141 NLRB 1103 (1963); *Bamberger's Paramus*, 151 NLRB 748, 751 (1965); *Purity Food Stores*, 160 NLRB 651 (1966).

Accordingly, a craft department group is generally an appropriate unit where, as here, there is no history of collective bargaining on a more comprehensive basis. See *E.I. Du Pont & Co.*, 162 NLRB 413 (1966).

The inquiry then turns to whether the service technicians are a craft unit. The Board defines a craft unit as:

. . . one consisting of a distinct and homogeneous group of skilled journeyman craftsmen, who, together with helpers or apprentices, are primarily engaged in the performance of tasks which are not performed by other employees and which require the use of substantial craft skills and specialized tools and equipment. *Burns & Roe Services Corp.*, 313 NLRB 1307, 1308 (1997).

I conclude that the service technicians are a craft unit. They are primarily engaged in mechanical diagnosis and repair work that is not performed by other employees. In order to perform this work, the service technicians undergo specialized training and use specialized tools. Indeed, on similar facts, the Board has held that automobile mechanics are a craft unit. See *Dodge City of Wauwatosa, Inc.*, 282 NLRB 459 (1986); *Fletcher Jones Chevrolet*, 300 NLRB 875 (1990). In *Dodge City* and *Fletcher Jones*, the Board stated that "mechanics possessing skills and training unique among other employees constitute a group of craft employees within an automotive ... department, and therefore may, if requested, be represented in a separate unit, excluding other service department employees." 282 NLRB at 460 fn. 6, 300 NLRB 875.

The Employer attempts to distinguish *Dodge City* and *Fletcher Jones* because the mechanics in those cases were separately supervised and had little or no work related contact with other employees. These factors do not outweigh the factors favoring a craft unit in this case. Like the mechanics in *Dodge City* and *Fletcher Jones*, the service mechanics supply their own tools and perform job duties that are distinct from those of the other employees. They possess skills that the other service employees do not have to diagnose and repair automobiles. Their skills are dissimilar from the skills regularly employed by the service advisors, the parts

counter person, the porter, and the body shop technicians, as evidenced by the \$70 flat rate charged to customers for service technicians work. They are subject to a different compensation scheme from the other employees because they can participate in the incentive bonus plan and earn up to \$2 more an hour for every hour worked. Like the mechanics in *Dodge City* and *Fletcher Jones*, a majority of the service technicians are certified to perform their duties. Thus, the service technicians share a community of interest apart from the other employees in the Employer's parts and service department.

As in *Dodge City* and *Fletcher Jones*, I shall also include the oil and lube technician as an apprentice or helper. Although he is not as skilled as the other unit technicians, he works in the service shop area and regularly performs mechanical work. The Employer argues that this conclusion mitigates toward including the service advisors as well as they also work in the service shop. I shall not include the service advisors because they do not perform mechanical work. Nor shall I include the body shop technicians on this basis. They do not work in the service shop and there is no evidence that they regularly perform mechanical repairs rather than bodywork.

The Employer contends that the unit must also include the service advisors, the parts counter person, the porter, body shop technicians, or at least the body shop technicians, because these employees are integrally related to the single function of servicing and repairing automobiles. I disagree with the Employer's argument because of the service technicians' separate craft identity and for the following reasons, which demonstrates their separate community of interest. The record reveals significant distinctions between the service technicians and the other employees. The record discloses that the service technicians use skills that are distinct from those of the other employees to diagnose and repair automobiles. With respect to the service advisors, the parts counter person, and the porter, these employees do not diagnose and repair mechanical problems. Similarly, the main function of the body shop employees is to perform body repairs rather than mechanical diagnostic or repair work.

Although the body shop employees may occasionally perform incidental or routine mechanical work, the service department performs all diagnostic work and all complex mechanical work. Despite the Employer's assertions, the record does not establish significant work related contact or interchange between service technicians and body shop employees. The service technicians and the body shop employees use different tools in order to perform their respective tasks. The service technicians also attend specialized training courses, which are required by Ford to perform warranty work and are different from training courses that the body shop technicians may voluntarily attend. The body shop employees do not possess any Ford certifications for mechanical repairs. There is no evidence that body shop technicians have been temporarily or permanently transferred to work as service technicians in the service shop. In sum, the training and skills that must be and are possessed by the service technicians set them apart from the rest of the service department as craftsmen and employees with a separate community of interest who appropriately may be represented in a separate unit. Further, some aspects of the pay system for the service technicians are unique to that classification.

Accordingly, for the reasons stated above, I find that the petitioned-for unit of service technicians, including the oil and lube technician and excluding all other categories of employees, is an appropriate unit. *Dodge City of Wauwatosa*, supra; *Fletcher Jones Chevrolet*, supra.

IX. CONCLUSIONS AND FINDINGS

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Petitioner claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time service technicians and oil and lube technicians employed by the Employer at its Jerseyville, Illinois facility, EXCLUDING office clerical and professional employees, guards, supervisors as defined in the Act, service advisors, body shop technicians, parts counter employees, and porters.

X. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Association of Machinists and Aerospace Workers, AFL-CIO. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. [Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike, which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote.](#) Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, 1222 Spruce Street, Room 8.302, St. Louis, MO 63103-2829, on or before **April 21, 2003**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (314) 539-7794. Since the list will be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by

facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

XI. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., (EST) on **April 28, 2003**. The request may **not** be filed by facsimile.

Dated: April 14, 2003,
at Saint Louis, Missouri

Ralph R. Tremain, Regional Director
National Labor Relations Board, Region 14

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